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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,875	01/29/2004	Young-Jun Kim	51813/P849	4124

23363 7590 10/19/2010
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EXAMINER	
WALKER, KEITH D	
ART UNIT	PAPER NUMBER
1726	
MAIL DATE	DELIVERY MODE
10/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/767,875	**Applicant(s)** KIM ET AL.	
	Examiner KEITH WALKER	**Art Unit** 1726	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Keith Walker/
Primary Examiner, Art Unit 1726

Continuation of 11. does NOT place the application in condition for allowance because: The arguments presented are not persuasive. Applicant argues the 112 first paragraph rejection is not proper since the claimed invention is enabled. However, the 112 first paragraph rejection is not an enablement rejection but a scope of enablement rejection. The scope of the claimed invention is not enabled by the instant specification, as discussed in the Office Action. Therefore, applicant's arguments are not commensurate in scope with the rejection.

Regarding the 112 second paragraph rejection, applicant appears to state the amount of gas generated is a characteristic property of the battery that is determined by the charging. Page 4 of arguments state "the feature discussed by Examiner is a property of the electrode or a battery comprising the electrode." and pages 4-5 of the arguments state "the electrode or a battery comprising the electrode has a particular property, and that the property, a particular gas generation, may be measured when the electrode or battery is charged to determine whether the property is present." Therefore, the charging step is a method of testing the amount of gas generated by the electrode, which is an inherent property of the electrode. If applicant agrees that the claims are interpreted to mean that the charging step is a limitation drawn to a method of testing the electrode to confirm an inherent property of the electrode, then the 112 second rejection will be withdrawn. Else, it is still unclear what encompasses the final claimed product.

Applicant argues differences exist in the vacuum drying process. However, as stated by the instant specification and not included in the claims, the vacuum is performed at a temperature is 80°-120°C, a pressure of less than 10 torr and a time of 1 to 72 hours. Dasgupta teaches a vacuum drying of a temperature of 80°C, a pressure of less than 10 torr and a time of 2 to 8 hours. All vacuum drying parameters discussed in the instant specification are taught by Dasgupta. Coating the current collector with the active material before or after the vacuum drying of the active material would not effect the gas generation since it is the active material that forms the gas.

Since the amount of gas generated is an inherent property of the electrode, as argued by applicant, the electrode taught by Dasgupta and Takami inherently generate the same gas claimed.

Applicant's arguments of unexpected results are unsupported and the arguments of council cannot take the place of evidence.